

REMARKS

Claims 1-5 are currently pending in the present application. Claim 1 has been amended herein, support for which may be found in the specification, at least, at paragraphs [0018] and [0025]. No new matter has been added by way of the present claim amendments.

Rejection under 35 U.S.C. §112, second paragraph

The Examiner has rejected claims 1-5, stating that the claims are unclear because “the claimed substrate is defined not by what it is but rather by what response it might yield under ambiguous circumstances” (i.e., the claim refers to the present invention by its properties, rather than its components). The Examiner further states that the claims are unclear because of the phrases “wavelength/frequency of the characterizing light” and “effectively used area”.

Applicants have amended claim 1 to clarify what is intended by the presently claimed invention. Therefore, Applicants submit that the Examiner’s concerns have been fully addressed. Reconsideration and withdrawal of the outstanding rejection are respectfully requested.

Rejection under 35 U.S.C. §102 – Anticipation

Claims 1-5 stand rejected under 35 U.S.C. §102(b) as being anticipated by USP 5,647,917 to Oida et al. (hereinafter “Oida”). Applicants respectfully traverse.

According to the present invention, claim 1 recites (in relevant part), that
“the haze is not more than 2 ppm all over an effectively used area of the substrate”

However, Oida discloses that “two elements which determine the density of the hillocks on the film are the inclination angle of the substrate (corresponding to the off-angle) and the density of the inherent defects of the substrate (corresponding to the dislocation density)”. See column 4, lines 38-41. Oida fails to disclose the limitations of the presently claimed invention regarding the haze.

Notably, it is known to those of skill in the art that the dislocation density and the haze are two separate characteristics. Further, it is known that the "haze" of the substrate is heavily influenced by the polishing condition of the surface of the substrate. Accordingly, the dislocation density of a single crystal has little correlation with the haze of the substrate to be obtained from the single crystal, and the fact that the dislocation density of the single crystal is small does not necessarily lead to a conclusion that the haze of the substrate to be obtained would be small. Simply put, even where there is no dislocation, it does not necessarily follow that the haze is not more than 2 ppm, which is contrary to the Examiner's statement at paragraph 4 of the Office Action.

Therefore, Applicants respectfully submit that the Examiner's rationale for applying Oida against the presently claimed invention is improper. Oida cannot properly anticipate the presently claimed invention because Oida does not teach each and every limitation of the claimed invention, as required under 35 U.S.C. §102. Reconsideration and withdrawal of the outstanding rejection are respectfully requested.

In view of the foregoing, Applicants believe the pending application is in condition for allowance. A Notice of Allowance is earnestly solicited.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Monique T. Cole, Reg. No. 60,154 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.17; particularly, extension of time fees.

Dated: January 7, 2009

Respectfully submitted,

By 

MTC Marc S. Weiner

Registration No.: 32,181

BIRCH, STEWART, KOLASCH & BIRCH, LLP

8110 Gatehouse Road

Suite 100 East

P.O. Box 747

Falls Church, Virginia 22040-0747

(703) 205-8000

Attorney for Applicant